

GEORGE W. WRIGHT & ASSOCIATES, LLC  
505 Main Street, Suite 106  
Hackensack, New Jersey 07601  
(201) 342-8884

Attorneys for Plaintiff

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PLAZA FUELING AGENTS	)	UNITED STATES DISTRICT COURT
INCORPORATED,	)	DISTRICT OF NEW JERSEY
	)	
Plaintiff,	)	Civil Action No.
	)	
v.	)	<b><u>VERIFIED COMPLAINT</u></b>
	)	
M/V FEDERAL BEAUFORT, IMO No.	)	
9697818, her engines, boilers, tackle, etc., in	)	
rem, and FEDNAV INTERNATIONAL	)	
LTD., in personam,	)	
	)	
Defendants.	)	
	)	

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Plaintiff, PLAZA FUELING AGENTS INCORPORATED (“PLAZA”), by and through its attorneys, George W. Wright & Associates, LLC, as and for its Verified Complaint herein, alleges upon information and belief as follows:

**Jurisdiction and Venue**

1. This Honorable Court has subject matter jurisdiction on the basis of 28 U.S.C. § 1333. In addition, the Court has diversity of citizenship jurisdiction with respect to plaintiff’s claim against defendant FEDNAV INTERNATIONAL LTD. pursuant to 28 U.S.C. § 1332(a)(2) since plaintiff is a corporation organized and existing under and by virtue of the laws of one of these United States and defendant is a corporation organized and existing under and by virtue of the laws of a foreign country.

2. The Complaint sets forth an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and the Supplemental Rules for

Admiralty or Maritime Claims and Asset Forfeiture Actions, annexed to the Federal Rules of Civil Procedure.

3. The Court has personal jurisdiction over defendant FEDNAV INTERNATIONAL LTD. (“FEDNAV”) because the contract between the parties whose breach is the basis for plaintiff’s claim was agreed in New Jersey and part of plaintiff’s performance occurred in this state.

**Parties**

4. Plaintiff, PLAZA FUELING AGENTS INCORPORATED (“PLAZA”), is a corporation organized and existing under and by virtue of the laws of Virginia, registered to do business in New Jersey, with an office and place of business at Suite 1F, 2317 Route 34 South, Manasquan, NJ 08736. Plaintiff sells and arranges delivery of marine fuel to vessels.

5. Defendant, FEDNAV, is a corporation organized and existing under and by virtue of the laws of Canada or some other foreign country, with an office and place of business at Suite 3500, 1000 de La Gauchetière Street West, Montreal H3B 4W5, Canada. FEDNAV owns and/or operates vessels in the international carriage of goods by sea.

6. Defendant, M/V FEDERAL BEAUFORT (“the Vessel”), IMO No. 9697818, is a 34,564 dead-weight ton bulk carrier, registered under the laws of the Marshall Islands, owned by non-party Federal Atlantic Ltd. and commercially managed by defendant FEDNAV.

**Facts**

7. PLAZA brings this action to recover amounts due and owing to it under a maritime contract for the supply of marine fuel to the Vessel at a port in the United States.

8. On or about October 16, 2018, by means of a request sent to plaintiff's office in Manasquan, FEDNAV asked that plaintiff supply up to 96 metric tons of Marine Gas Oil ("MGO") to the Vessel when it called at the port of Ashtabula, Ohio later that month.

9. Pursuant to a Sales Confirmation provided to FEDNAV on October 16, 2018 from the office in Manasquan, plaintiff agreed to sell and deliver, or arrange for the delivery, to the Vessel of the marine fuel ordered by FEDNAV. The Sales Confirmation provided that the sale of marine fuel was subject to Seller's General Terms and Conditions for Sale of Petroleum Products, dated September 2016 ("PLAZA GTCs").

10. Personnel in plaintiff's office in Manasquan arranged for 96.130 metric tons of MGO, maximum 0.1% sulphur, to be delivered and furnished to the Vessel at Ashtabula on or about October 25, 2018. The MGO was in fact delivered and furnished to the Vessel at that port on that day and the Vessel's Chief Engineer or other officer signed and affixed the Vessel's stamp on a Marine Bunker Receipt confirming the ship's receipt of the fuel.

11. On October 25, 2018, plaintiff, from its office in Manasquan, sent its invoice no. 19772 to the defendant for 96.130 metric tons of MGO, maximum 0.1% sulphur, sold to and delivered to FEDNAV and the Vessel as aforesaid. At a unit price of \$802.00 per metric ton, the invoice was in the amount of \$77,096.26.

12. Payment of the invoice was due on November 21, 2018 but, to date, has not been received and the sum of \$77,096.26 remains due and owing from the defendants. The failure to pay for the bunkers gives rise to a maritime lien against the Vessel, which may be exercised by arresting the Vessel in rem.

13. By signing and stamping the Marine Bunker Receipt, the Vessel's Chief Engineer and/or other officers acted on behalf of the Vessel and her Owner and/or Manager to

procure the fuel for the ship, and thereby accepted the fuel on behalf of the Vessel in compliance with the Commercial Instruments and Maritime Lien Act, 46 U.S.C. §§ 31301-31343.

14. The marine fuel delivered to the Vessel was necessary for the accomplishment of her mission – i.e., the transportation of cargo in international trade. The Vessel's representatives at the time of the fuel delivery described herein were authorized to order, receive and acknowledge delivery of this necessary for the account of and on the credit of the Vessel.

15. The Vessel received the benefit of the aforementioned fuel delivery and is indebted to plaintiff and, along with defendant FEDNAV, obligated to pay for the aforementioned marine fuel.

16. Plaintiff has performed all conditions precedent to warrant full and complete payment for the aforementioned marine fuel.

17. Pursuant to the PLAZA GTCs, plaintiff is entitled to recover its reasonable attorney's fees from the defendants, as the purchasers of the marine fuel at issue.

18. The PLAZA GTCs also provide that they shall be governed by and construed in accordance with the laws of the State of New Jersey, except to the extent they are governed by the General Maritime Law of the United States with respect to (a) the existence of a valid maritime lien in plaintiff's favor against the Vessel, and (b) other matters, if any, under the Agreement that involve vessels, harbors, seamen, or maritime affairs or commerce generally. In addition, the PLAZA GTCs provide that any action brought by a Buyer thereunder against the Seller may be brought only in a court of competent jurisdiction in the State of New Jersey.

19. As a result of the foregoing, plaintiff has a claim for breach of contract against defendant FEDNAV as well as a maritime lien against the defendant Vessel. The latter –

i.e., the maritime lien – is enforceable in admiralty in accordance with the provisions of Rule C of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

20. Payment of the sum of \$77,096.26 has been demanded from defendant FEDNAV. However, to date, FEDNAV and the Vessel have neglected, failed or otherwise refused to pay the outstanding aggregate sum of \$77,096.26 plus interest and legal fees, which is indisputably due and owing to Plaintiff pursuant to the contract under which the fuel was sold to the defendants.

WHEREFORE, plaintiff PLAZA FUELING AGENTS INCORPORATED prays:

1. That process in due form of law according to the usual practice of this Court may issue against defendant FEDNAV INTERNATIONAL LTD.

2. That, if defendant FEDNAV INTERNATIONAL LTD. cannot be found within this District, that all of its property within this District be attached in the sum set forth in this Complaint, with interest, attorneys fees and costs.

3. That process in due form of law according to the usual practice of this Court may issue against the defendant M/V FEDERAL BEAUFORT in rem.

4. That a decree may be entered in favor of plaintiff against defendants for the amount of plaintiff's damages, together with interest, attorneys fees and costs.

5. Plaintiff have such other and further or different relief as to this Court may seem just and proper in the premises.

Dated: July 21, 2019

GEORGE W. WRIGHT & ASSOCIATES, LLC  
Attorneys for Plaintiff

BY:

  
GEORGE W. WRIGHT

**VERIFICATION**

STATE OF NEW JERSEY )

COUNTY OF MONMOUTH )

I, William G. Gotimer, Jr., provide the following verification:

I am the president of plaintiff Plaza Fueling Agents Incorporated. I have read the foregoing Complaint and know the contents are true to my knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true.

William G. Gotimer Jr.  
William G. Gotimer, Jr.

**DECLARATION PURSUANT TO U.S.C. § 1746**

I verify under penalty of perjury that the foregoing is true and correct and has been executed on this, the 21 day of July, 2019.

W.

William G. Gotimer Jr.  
[name of officer]  
President